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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,554	11/09/2001	Hajime Ashihara	Q67202	5906

7590 10/24/2005
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EXAMINER

POND, ROBERT M

ART UNIT PAPER NUMBER

3625

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/986,554	Applicant(s) ASHIHARA, HAJIME	
	Examiner Robert M. Pond	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

The Applicant amended independent claims 2, 5, 8, 12, 15, and 18 to overcome restriction requirements. Restriction of claims 1-20 is withdrawn. All claims pending (1-20) were examined in this first non-final action.

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 2. Claims 1-20 are rejected under 35 USC 103(a) as being unpatentable over Hollander (PTO-892, Item: U) in view of Sills (PTO-892, Item: V), further in view of Origination News (PTO-892, Item: W).**

Hollander teaches surrogate shopping whereby a surrogate shopper is defined as a commercial enterprise engaged and paid by the consumer or other interested party on the behalf of the consumer to make or facilitate purchase selection decisions. Inherent in Hollander are the structures necessary to permit the consumer to make a decision on paid services (U: see at least pages 1 and 2). Hollander teaches a shopper is a person, firm, or other entity engaged in business or professional activity who helps shape the purchasing decisions of the consumer (U: see at least page 2). Hollander teaches performing any or all of the decision-making tasks or buying-center roles on behalf of consumers (U: see at least page 3):

- diagnosing needs,
- searching,
- helping consumers narrow the consideration set,
- evaluating attributes of alternatives; conducting product trials,
- narrowing the choice set, and making choices (of attributes, materials, and products),
- negotiating prices,
- purchasing products,
- building assortments, and/or

- delivering products (services) to consumers.

Hollander teaches all the above as noted under the 103(a) rejection and further teaches architects, bridal consultants, caterers, physicians, real estate agents, or travel agents as examples of surrogate shoppers, and further teaches electronic, web, and Internet-based surrogacy systems (U: see at least Table 1 page 20; page 15), but does not disclose specifics pertaining to such online surrogate shopping systems. Sills teaches PC Foods, an online service, striving to become a consumer's supermarket surrogate by offering personal shopper service (V: see at least pages 1 and 2). Sills further teaches:

- Transmitting sales information from an agent server to a user terminal: shopping-list functionality based on online database containing product information of sales items that are only purchased in the store (V: see at least page 2); using a search engine to search for product information (V: see at least page 2).
- Displaying the transmitted sales information to allow user to select an item: Inherent in Sills are the structures necessary to permit the displaying of sales information. For example, consumers make selections from shopping list feature; use web browser to communicate with web service (V: see at least page 2).
- Transmitting an acknowledgment: receives communication from personal shopper pertaining to delivery and selections (V: see at least pages 2 and 3).

- Payment: non-members charged 10% of the sales order and delivery flat fee of \$10; optional tip; 15% for in-store shopping (V: see at least page 3).
- System: computers remotely connected to a web service via the Internet.

Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Hollander to implement electronic surrogacy as taught by Sills, in order to provide a fee-based surrogate shopping service, and thereby increase sales for the service.

Hollander and Sills teach a) a consumer making a decision regarding paid services by a surrogate shopper, b) surrogate shoppers being paid by consumers to serve as diagnosticians, locators, recommenders, buyers, package suppliers, and deliverers, and further teach surrogate shoppers conducting product trails on behalf of the consumer and serving as an appraiser for the customer (U: see at least page 3). Hollander and Sill, however, do not disclose providing an inspection report on a desired item by the consumer. Origination News teaches inspection adding value to an appraisal, making an inspection on a desired item, providing an inspection report on a desired item, and using the inspection report to make a purchase decision (W: see at least pages 1 and 2). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Hollander and Sills to facilitate use of an inspection report by an appraiser in decision making as taught by Hollander and Sills, in order to

Art Unit: 3625

provide an additional purchase-making decision convenience for the shopper,
and thereby increase sales for the service.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond
Primary Examiner
October 11, 2005